

1 KEKER & VAN NEST, LLP
DARALYN J. DURIE - #169825
2 CHRISTA M. ANDERSON - #184325
DAN JACKSON - #216091
3 ROSE DARLING - #243893
REBEKAH PUNAK - #248588
4 710 Sansome Street
San Francisco, CA 94111-1704
5 Telephone: (415) 391-5400
Facsimile: (415) 397-7188

6 Attorneys for Defendants
7 THE GAP, INC., a/k/a, GAP, INC., GAP INTERNATIONAL
SALES, INC., BANANA REPUBLIC, LLC, AND OLD NAVY,
8 LLC

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 ROOTS READY MADE GARMENTS CO.
W.L.L.,

15 Plaintiff,

16 v.

17 THE GAP, INC., a/k/a, GAP, INC., GAP
18 INTERNATIONAL SALES, INC., BANANA
REPUBLIC, LLC, AND OLD NAVY, LLC

19 Defendants.
20

Case No. C 07-03363 CRB

**DECLARATION OF REBEKAH PUNAK
IN SUPPORT OF GAP'S MOTION FOR
ORDER SHORTENING TIME FOR
BRIEFING AND HEARING ON MOTION
FOR PROTECTIVE ORDER**

Date: February 29, 2008
Time: 10:00 a.m.
Dept: 8
Judge: Honorable Charles R. Breyer

1 I, REBEKAH PUNAK, declare and say that:

2 1. I am an attorney licensed to practice law in the State of California and before this
3 Court and am an associate at Kecker & Van Nest, LLP, counsel for defendants The Gap, Inc.,
4 a/k/a Gap, Inc., Gap International Sales, Inc, Banana Republic, LLC, and Old Navy, LLC
5 (collectively "Gap").

6 2. I have knowledge of the facts set forth herein, and if called to testify as a witness
7 thereto, could do so competently under oath.

8 3. Gap's Motion for a Protective Order filed herewith seeks to postpone the deposition
9 of Jacques Fabre until such time as Roots has filed an amended complaint that can survive a
10 motion to dismiss. The facts underlying Gap's motion for a protective order are set forth in
11 detail in that motion, filed concurrently with the present motion to shorten time, at p. 2.

12 4. Gap will suffer substantial prejudice should the Court not grant the present motion to
13 shorten time. Adhering to the regular 35-day schedule for briefing Gap's motion for a protective
14 order will postpone hearing of the motion until April 4, 2008, a full month after Mr. Fabre's
15 deposition is noticed to go forward. Gap will suffer the same harm if the Court does not alter the
16 briefing schedule as it would had it not filed its motion for a protective order: it will be forced to
17 incur the undue prejudice and expense of preparing for and attending Mr. Fabre's deposition.

18 5. On Thursday, February 21, 2008, Roots served Gap with notice that it intended to
19 depose Mr. Fabre on March 4, 2008 in New York. A true and correct copy of the Notice of
20 Deposition of Jacques Fabre is attached hereto as Exhibit A.

21 6. The following Tuesday, February 25, 2008, I attempted to contact Roots' counsel by
22 telephone to discuss the notice of Mr. Fabre's deposition and to obtain Roots' consent to a
23 shortened schedule for the briefing and hearing of Gap's motion for a protective order. I was
24 told that Bradley Nash, counsel for Roots, was unavailable to speak on the telephone at that time.
25 I thereafter sent Mr. Nash an email explaining that the noticed deposition of Mr. Fabre is
26 inappropriate and unduly burdensome at this stage in the litigation and requesting a shortened
27 briefing schedule. A true and correct copy of my email to Mr. Nash is attached hereto as Exhibit
28 B.

1 7. Mr. Nash responded by email on February 26, 2008, stating that he would not be
2 available to meet and confer until 4:00 pm that afternoon. A true and correct copy of Mr. Nash's
3 email is attached hereto as Exhibit C.

4 8. On the afternoon of February 26, 2008, I spoke with Mr. Nash on the telephone and
5 requested a shortened briefing schedule for the motion for a protective order. Mr. Nash
6 responded that he would oppose this motion.

7 9. Prior time modifications in this case include Roots' request to participate in
8 depositions in the Gabana case, which this Court heard by teleconference on shortened time; the
9 parties' stipulated extension of time for defendants to respond to the Complaint until August 13,
10 2007; the parties' stipulated extended briefing schedule for Gap's Motion to Dismiss Roots' First
11 Amended Complaint; and the parties stipulated extension of time for defendants to respond to the
12 Second Amended Complaint.

13 10. Gap's request for shortened time will not disrupt the overall schedule for the case

14 I declare under penalty of perjury under the laws of the United States that the foregoing is
15 true and correct and that this declaration was executed on February 26, 2008, in San Francisco,
16 California.

17
18 /s/ Rebekah L. Punak
REBEKAH L. PUNAK